
CANNON'S PRECEDENTS

VOLUME VI

CANNON'S PRECEDENTS
OF THE
HOUSE OF REPRESENTATIVES
OF THE
UNITED STATES

INCLUDING REFERENCES TO PROVISIONS
OF THE CONSTITUTION, THE LAWS, AND DECISIONS
OF THE UNITED STATES SENATE

By
CLARENCE CANNON, A.M., LL.B., LL.D.

VOLUME VI

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PREFACE TO SECOND EDITION

It is difficult to appraise too highly the benefits accruing to the House from the codification of its procedure by Mr. Hinds. The daily citation of the Precedents on the floor and the adherence to fundamental principles of procedure which they have enjoined have affected not only the technical routine of the House but also, in a larger way, its ideals of democracy in legislation, its conception of parliamentary equity, and, indirectly, its prestige as a branch of the Government.

The material value of the Precedents to the House is definitely measurable. Aside from other advantages naturally to be derived from a comprehensive digest of its practice, the saving of time alone which it has effected in the daily sessions has been invaluable. Beginning with the first Congress, one of the major problems of the House has been the restriction of debate on questions of procedure. Entire days have been dissipated in profitless, and frequently acrimonious, discussion of points of order. It was estimated shortly before the appearance of Mr. Hinds' work that a third of the time of the House was consumed in discussions of this character. Most of the questions under consideration on such occasions had been the subject of frequent and exhaustive debate in previous sessions and most of them had been authoritatively decided many times before. Any fairly accurate compendium would have disposed of them before they were submitted. But in the absence of such a digest former decisions were forgotten or disregarded and the same questions, again were permitted to consume time which otherwise would have been devoted to the public business. Not infrequently, before the publication of the Precedents, conflicting decisions on the same point of order, sometimes by the same presiding officer, and apparently of equal weight, were produced to divide the House and confuse the Chair. In such cases a digest of decisions establishing the validity of one and the fallacy of the other, and indicating the recognized practice of the House, would have anticipated the point of order and saved the House both the digression and the delay. As a matter of fact, the publication of the Precedents has largely decreased the number of points of order presented in an average session. Obviously, no Member desires to be placed in the attitude of obstructing the proceedings when reference to an index at the Speaker's elbow will disprove his contention as soon as stated. In this way unwarranted excursions of attention and diversions of time on such questions have been reduced to a minimum. It is only necessary to glance through the pages of the Congressional Record of former sessions and compare them with the Records of today, to realize the extent of this reform. In view of the constantly increasing pressure of the business of the House, this accomplishment stands out as one of the notable developments in the parliamentary history of the Congress. No one influence since the time of Jefferson has affected so profoundly the procedure of the House or has contributed so materially to the efficient

and harmonious disposition of the ever-growing volume of business pressing for legislative consideration.

But Mr. Hinds' compendium is more than a parliamentary text. Through the recognition of established parliamentary principles which it enjoined on Speakers and chairmen; through the stable and orderly processes which it instituted in the practice of the House, men came to look upon parliamentary probity as a matter of inherent right rather than a contingent privilege subject to political exigencies; to regard it as a science rather than an improvisation to be varied at the caprice of the Chair or the behest of partisan interests. In this respect it contributed inevitably to momentous readjustments in the law of the House.

The period covered most intimately by the *Precedents* had witnessed the rise of the speakership to a position of commanding influence. In the last years of the nineteenth century especially, when turbulent minorities welded their historic functions of criticism and protest into ruthless instruments of obstruction, the power of the Speaker, necessarily enhanced to meet the emergency, approached absolutism. Fostered by the arbitrary exercise of the power of recognition by Speaker Carlisle, supplemented by utilization of special orders under Speaker Crisp, the growing ascendancy of the speakership was further augmented under Speaker Reed and reached its flower under Speaker Cannon. Entrenched behind the power to appoint committees, with authority to extend or refuse control of the floor, sitting as chairman ex officio of the Committee on Rules, and exercising the right to count a quorum or declare a motion dilatory, the Speaker became an arbiter from whose decisions in chambers there was no appeal. So autocratic was the power of the speakership that contemporary historians characterized the office as "second in power only to the presidency,"¹ or considered the Speaker of the House as "more powerful than the President of the United States."² Such was the situation at the opening of the Sixty-first Congress.

The reaction came with startling suddenness. Almost overnight the slowly accumulated prerogatives of the great office crumbled. Within three short years (1909–11) a bipartisan revolution swept away every vestige of extrajudicial authority. The power of recognition was circumscribed by the establishment of the Unanimous Consent Calendar, the Discharge Calendar, the provision for Calendar Wednesday, and by the restoration to the minority of the motion to recommit. The appointment of committees was lodged in the House, and the Speaker was made ineligible to membership on the Committee on Rules. Reference of bills

¹No one who looks beneath the surface of our national political system can fail to see that the Speaker is, next to the President, the most powerful man in the Nation, and that his influence increases. (Albert Bushnell Hart, Follett's *The Speaker of the House of Representatives*, p. xi.)

"The Speaker of the House of Representatives was the undoubted second officer of the Government. He towered at times above the President, with whom, in power, he was virtually co-equal." (George Rothwell Brown, *The Leadership of Congress*, p. 102.)

²This system in reality made him more powerful than the President of the United States. Without his consent and assistance, legislation was practically impossible. The President might recommend, but the Speaker dictated, legislation. He not only decided what legislation should be permitted but he even shaped the form of that legislation to conform to his own personal ideals." (Fuller, *The Speakers of the House*, p. 269.)

to committees was standardized by rigid enforcement of the rules of jurisdiction; recalcitrant committees and managers of conference were rendered subject to summary discharge; and the determination of legislative policies and programs was delegated to party caucuses and steering committees. The tidal wave of reform culminated with the adoption of the rules for the Sixty-second Congress and Speaker Clark succeeded to an office which, aside from the outstanding position he occupied in his party, was hardly more than that of moderator. The control of the House thus wrested from the Speaker has been more than maintained. Command has passed from the Chair to the floor, and the prerogatives of the Speaker have been jealously limited by the rules of each succeeding Congress. Administrative functions are vested in party caucuses and their all-powerful steering committees which meet as party boards of strategy and on occasion have been attended by the Speaker on invitation and not by right of membership.³

The restoration of the judicial character of the Speakership is reflected both in the decisions of the Chair and in their reception by the House and by the country at large. Supported by citation of clearly defined and long established principles of procedure as enunciated in the Precedents, the opinions of the Chair are no longer subject to the criticism of the press and the distrust of the minority which regularly featured sessions of Congress in former years. At liberty to disregard political considerations, and no longer under the onus of serving party interests, the decisions of the Speaker are judicial and academic rather than polemic and partisan, a change which has served to add distinction to the office and its incumbents.

At the same time the prestige of the House and its influence in legislation has been largely enhanced. Through the establishment of the budget system and the concentration of the power of appropriation in a single committee, the House has strengthened its grip on the national purse strings. Its insistence on the observance of recognized rules of conference and the maintenance of its privilege in revenue legislation have further contributed to its influence. In the reenactment of the Holman rule in 1911, and the adoption of the amendment of 1920, interdicting fiscal legislation in conference, it has affirmed its primacy in the formulation of the supply bills and emphasized its constitutional prerogatives.

To recapitulate, the quarter century which has elapsed since the publication of the Precedents has witnessed a more radical amendment of the rules and a more fundamental change in the unwritten law of the House than any similar period since its establishment. It has been a period of change, not only in House procedure but in world relations, economic standards, scientific formulas, and every phase of human progress. A world war with its attendant problems, the adoption of constitutional amendments of far-reaching effect, the enfranchisement of women, the authorization of new bases of Federal taxation, increased membership of the House, decisions of the Supreme Court affecting the Congress and its powers, extensions of the activities of the Federal Government into new channels, and vast national readjustments, have precipitated legislative proposals in such volume and of a character so unprecedented in the practice of the House as

³ Speaker Gillett was not a member of his party's steering committee.

to render a revision of the Precedents incorporating the modern practice indispensable.

The appended supplement is in response to this requirement. In its preparation Mr. Hinds' original plan has been followed wherever adaptable. His entire work is here reprinted in unabridged form, and while much of it is no longer relevant, no chapter or section of a work of this character can become obsolete. With the lapse of time the original edition becomes increasingly valuable in supplying historical background and in the preservation of premises applicable by analogy to current problems.

In conclusion, the author, out of his long study of the Precedents during his service as parliamentarian of the House, as a Member of the Congress, and as compiler of the supplement, desires to give expression to an ever-increasing appreciation of the profound scholarship, the remarkable faculty of analysis, and the indefatigable industry of Asher Crosby Hinds. His work will stand for all time a landmark in the field of parliamentary jurisprudence unapproached by contemporary authors.

CLARENCE CANNON.

ELSBERRY, MO., *January 1, 1936.*

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